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DS

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/998,542	12/26/97	ALI	F RR2195

EXAMINER

GARLICK & ASSOCIATES
P.O. BOX 160727
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LM11/0616

GHAYOUR M	PAPER NUMBER
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2734

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DATE MAILED: 06/16/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 12/26/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-37 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-37 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
☐ Interview Summary, PTO-413
☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 2734

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 6, 11, 14, and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilhousen et al. (US patent 5,603,096) and further in view of Lomp (US patent 5,574,747). Gilhousen et al. Clearly disclose all the elements of claimed subject matter **as stated in applicants' claims 1-3, 5, 6, and 28-31** (see abstract, col. 2 line 55 to col. 3 line 3, col. 3 lines 47-63, col. 5 lines 6-30, and col. 6 lines 47-55) except for altering the power level of subscriber unit based on adjustable power control step size. Lomp teaches adjusting (increasing or decreasing) the power control step size (see figure 21 and column 20 line 56 to column 21 line 17)

3. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lomp (US patent 5,574,747) and further in view of Gilhousen et al. (US patent 5,603,096). As to claims 16-18, figure 21 of lomp reference discloses all the subject matter claimed (see blocks 334, 339, and 345 for processing unit and blocks 344 and 346 and col. 20 line 56 to col 21 line 17 for step size

Art Unit: 2734

adjustment of power), except for the further limitations as stated in claims 17 and 18. Gilhousen et al. teaches further, the use of power control technique, in the same field of endeavor, for the purpose of controlling the transmission power of a mobile subscriber unit in a CDMA environment base on measuring the power level and signal quality of the received signal from the mobile subscriber unit (see item 2 above). As to claim 20, column 1 line 38 to column 2 line 6 of Lomp reference discloses controlling the output power of mobile units based on their location and dynamic position with reference to the base station (see also applicants' "RELATED ART" disclosure in page 5 lines 3-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Gilhousen et al. with that of Lomp in order to control the transmission power of a mobile unit as claimed.

4. Claims 8, 9, 21, 22, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilhousen et al. (US patent 5,603,096) as applied to claims 1 and 28 and Gilhousen and Lomp (US patent 5,574,747) as applied to claim 16 above, and further in view of applicants furnished "RELATED ART". Gilhousen et al. and Lomp disclose all the subject matter claimed, see items 2 and 4 above, except for the further limitations as stated in claims 8, 22, and 33. Page 6 line 6 to page 7 line 5 of applicants "RELATED ART" disclosure teaches high speed data links for the purpose of transferring data at high data rates from a source to a destination. Also, it discloses the condition of the system based on the number coded channels and its contribution to service quality. Therefore, it would have been obvious to one of ordinary skill in the art at the

Art Unit: 2734

time the invention was made use the number of coded channels from subscriber unit to measure system's condition and use that as measure to control transmission power.

5. Claims 10, 23, 27, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilhousen et al. (US patent 5,603,096) as applied to claims 1, 16, and 28 respectively, and further in view of Lomp (US patent 5,574,747). Gilhousen et al. disclose all the subject matter claimed, see items 2 and 4 above, except for the base station to direct subscriber unit to change power control step size. Lomp teaches adjusting (increasing or decreasing) the power control step size via command sequences sent to the subscriber unit (see column 20 line 56 to column 21 line 17) or autonomously and automatically by the subscriber unit itself (see col. 20 lines 61-63 and col. 21 lines 9-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use part of the power control command sequence (or any command sequence for that matter) from the base station to direct the subscriber unit(s) to adjust power control step size.

6. Claims 7, 13, 20 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilhousen et al. and Lomp as applied to claims 1, 16, and 28 above, and further in view of Reed et al. (US patent 5,574,984). Gilhousen and Lomp disclose all the subject matter claimed, see items 2 and 4 above, except for placing system's conditions based on mobility characteristics. Reed et al. teaches the use of system's mobility characteristics as means to control transmission power (see col. 2 lines 22-49 and col. 6 lines 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of

Art Unit: 2734

Reed et al. with that of Gilhousen and Lomp in order to control SU's power based on its dynamic conditions.

7. Claims 4, 15, 25, 26, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilhousen et al. and Lomp. Gilhousen et al. and Lomp disclose all the subject matter claimed except for the further limitations as stated in claims 4, 15, 25, 26, 36, and 37. As to claim 4, it is obvious that if the base station and a subscriber unit can communicate, then the subscriber unit can inform the base station regarding its capabilities to support multiple control step sizes. As to claim 15, this is simply a design choice or a parameter selection and hence, of no inventive value. As to claims 25 and 26, it is obvious that if a base station can direct a subscriber unit to adjust its power control step size, such command can be issued anywhere including during handoff. As to claims 36 and 37, assuming that by the word "dynamically" it means both wireless communication system and subscriber unit are in motion, it is obvious that they still can communicate (i.e. wireless communication system directing SU to adjust its power) as two mobile phones can communicate, for example.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2734

9. Claims 12, 19, 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As to claims 12 and 19, it is not clear to the examiner as to what type of service applicants referring to. As to claim 24, the word "may" in line 1, makes the claimed subject matter indefinite.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ghayour whose telephone number is (703) 306-3034. The examiner can normally be reached on Monday-Thursday from 8.30AM to 4.30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached on (703) 305-4714. The fax phone number for this group is (703) 308-5403.

Any inquiry of general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 305-4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

Serial Number: 08/998,542

Page 7

Art Unit: 2734

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-5403, (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington. VA., Sixth Floor (Receptionist).

Mohammad Ghayour

Patent Examiner



STEPHEN CHIN
SUPERVISORY PATENT EXAMINER
GROUP 2700